



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 3, 1998

Mr. Homero Ramirez  
Webb County Attorney  
1110 Victoria, Suite 403  
Laredo, Texas 78040

OR98-2925

Dear Mr. Ramirez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120299.

The Laredo-Webb County Community Action Agency (the "agency") received a request for information regarding "use of CEAP grant funds for air conditioners, water coolers, and electrical co-pays." You ask whether some of the requested information is protected from disclosure by constitutional or common-law privacy. You submit a representative sample of information you say is responsive to the request.<sup>1</sup>

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information protected by constitutional and common-law rights to privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and it is of no legitimate concern to the public. *Id.* at 683-85.

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<sup>1</sup>In reaching our conclusion, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision No. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

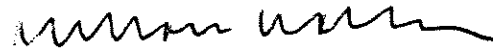
The constitutional right to privacy consists of two related interests: 1) the individual interest in independence in making certain kinds of important decisions, and 2) the individual interest in independence in avoiding disclosure of personal matters. The first interest applies to the traditional "zones of privacy" described by the United States Supreme Court in *Roe v. Wade*, 410 U.S. 113 (1973), and *Paul v. Davis*, 424 U.S. 693 (1976). These "zones" include matters related to marriage, procreation, contraception, family relationships, and child rearing and education. The second constitutionally protected interest, in nondisclosure or confidentiality, may be somewhat broader than the first.

However, unlike the test for common-law privacy, the test for constitutional privacy involves a *balancing* of the individual's privacy interests against the public's need to know information of public concern. Although such a test might appear more protective of privacy interests than the common-law test, the scope of information considered private under the constitutional doctrine is far narrower than that under the common law; the material must concern the "most intimate aspects of human affairs." See Open Records Decision No. 455 at 5 (1987) (citing *Ramie v. City of Hedwig Village*, 765 F.2d 490 (5th Cir. 1985)).

You have not advised us as to the nature of the "CEAP grant funds" to which the requestor here alludes. We assume that these funds are public funds. Having reviewed the information you submitted, we do not believe that it is protected by constitutional or common-law privacy. We are unaware of any other law which limits its disclosure. If you are aware of provisions of state or federal law specifically protecting the information at issue here from disclosure, you may release it only in conformity with such provisions. See e.g. Open Records Decisions Nos. 318 (1982) (identities of public housing residents public); 584 (1991) (restrictions on release of information about certain welfare applicants and recipients). See also, Gov't Code § 552.352 (criminal penalties for distribution of confidential information). Otherwise, you must release the requested information in its entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



William Walker  
Assistant Attorney General  
Open Records Division

WMW/ch

Ref: ID# 120299

Enclosures: Submitted documents

cc: Ms. Maria Eugenia Guerra  
LareDOS  
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(w/o enclosures)